

\*\*E-Filed 9/21/06 \*\*

NOT FOR CITATION

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

SARA WALLAT,

Plaintiff,

V.

CALVIN KENNETH ROUSH

Defendant

Case Number C 05-03518 (JF) (HRL)

## ORDER<sup>1</sup> AWARDING COSTS AND ATTORNEYS' FEES

[re: docket no. 13]

Plaintiff filed the complaint in this action on August 31, 2005, alleging violation of the Fair Debt Collection Practices Act (“FDCPA”) against Defendant Calvin Kenneth Roush. Plaintiff filed a Notice of Acceptance of Offer of Judgment on October 13, 2005. Plaintiff filed an Application for Entry of Judgment on November 14, 2005.<sup>2</sup> The Court entered judgment on November 18, 2005 and instructed plaintiff to file a motion for attorneys’ fees and costs.

<sup>1</sup> This disposition is not designated for publication and may not be cited.

<sup>2</sup> Settlement negotiations had continued until that date but had proven fruitless.

1 Plaintiff filed a motion for attorney fees and costs on November 30, 2005.<sup>3</sup> Defendant filed  
 2 opposition on December 27, 2005, and Plaintiff replied on December 28, 2005.

3 Plaintiff requests \$4,776.27 in attorneys' fees and costs. This consists of: (a) \$3,816.27  
 4 in attorneys fees and in costs requested in the motion for attorneys' fees and costs; and (b)  
 5 \$960.00 in attorneys' fees requested for reviewing the Defendant's Opposition, researching the  
 6 law, and drafting the Reply.

7 (a) Plaintiff's request for \$3,816.27 includes \$250.00 in court costs. The Clerk of the  
 8 Court taxed costs in the sum of \$250.00 on December 30, 2005. Accordingly, the Court need not  
 9 include this \$250.00 in the present award of attorneys' fees and costs. The remaining \$3,566.27  
 10 is adequately supported by the declaration of counsel and the memorandum of points and  
 11 authorities submitted in support of Plaintiff's request.

12 (b) The Court concludes that Plaintiff's request for an additional \$960.00 is excessive.  
 13 There is no apparent reason why Plaintiff's counsel could not have prepared the Reply as quickly  
 14 as he completed the Memorandum in Support of Motion for Attorney Fees. Plaintiff's counsel  
 15 properly saw no need to provide the Court with complicated analysis or detailed research in his  
 16 reply and thus he did not do so. Consequently, it is unclear why Plaintiff's counsel required 3.2  
 17 hours to draft a five-page reply when he drafted a seventeen-page Memorandum in Support of  
 18 Motion for Attorney Fees in 1.3 hours. *See* Declaration of Fred W. Schwinn Exh. A (1.00 hr on  
 19 11/25/05; 0.30 hr on 11/29/2005). The Court concludes that Plaintiff's counsel could have  
 20 completed its reply in 1.3 hours. The Court will add 0.2 hours to this figure for the time  
 21 reasonably needed by Plaintiff's counsel to review Defendant's opposition. The Court therefore  
 22 concludes that \$450.00 (1.5 hr x \$300.00/hr) is the appropriate award of attorneys' fees for the  
 23 reply.

24 Accordingly, the Court HEREBY AWARDS costs and attorneys' fees in favor of  
 25 Plaintiff and against Defendant Calvin Kenneth Roush in the amount of \$4,016.27. This amount  
 26

---

27       <sup>3</sup> The FDCPA provides that a prevailing plaintiff may recover costs and reasonable  
 28 attorneys' fees. 15 U.S.C. § 1692k(a)(3).

1 is in addition to the \$250.00 of costs taxed to the Defendant by the Clerk of the Court on  
2 December 30, 2005.

3 IT IS SO ORDERED.  
4

5 DATED: September 21, 2006.  
6  
7  
8  
9  
10  
11



JEREMY FOGEL

12 United States District Judge  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 This Order has been served upon the following persons:

2 Frederick William Schwinn cand\_cmeclf@sjconsumerlaw.com,  
3 fred.schwinn@sjconsumerlaw.com

4 Calvin Kenneth Roush  
5 Suite 202  
2910 Jefferson Street  
6 Carlsbad, CA 92008

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28